

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MARVIN D. RICHARD,

Case No. 2:18-cv-00181-KJD-NJK

v.

**Petitioner,**

## ORDER

JOE GENTRY, *et al.*,

## Respondents.

In this habeas corpus action, on February 9, 2018, the Court appointed counsel for the petitioner, Marvin D. Richard. See Order entered February 9, 2018 (ECF No. 4). Counsel -- the Federal Public Defender for the District of Nevada -- appeared for Richard on March 9, 2018 (ECF No. 6). The respondents have also appeared (ECF No. 5).

Therefore, the Court will set a schedule for further proceedings in this action, as follows.

Payment of Filing Fee. Petitioner shall pay the \$5 filing fee for this action within 20 days from the entry of this order.

Amended Petition. If necessary, petitioner shall file an amended petition for writ of habeas corpus within 90 days after entry of this order. The amended petition shall specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition shall state how, when, and where that occurred. If petitioner determines that an amended petition need

1 not be filed, then, within 90 days after entry of this order, petitioner shall file a notice to  
2 that effect.

3        Response to Petition. Respondents shall have 60 days following service of the  
4 amended petition to file an answer or other response to the amended petition. If petitioner  
5 does not file an amended petition, respondents shall have 60 days following the due-date  
6 for the amended petition to file an answer or other response to petitioner's petition.

7        Reply. Petitioner shall have 45 days following service of an answer to file a reply.  
8 Respondents shall thereafter have 30 days following service of a reply to file a response  
9 to the reply.

10        Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner  
11 shall have 60 days following service of the motion to file a response to the motion.  
12 Respondents shall thereafter have 30 days following service of the response to file a  
13 reply.

14        Discovery. If petitioner wishes to move for leave to conduct discovery, petitioner  
15 shall file such motion concurrently with, but separately from, the response to respondents'  
16 motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct  
17 discovery filed by petitioner before that time may be considered premature, and may be  
18 denied, without prejudice, on that basis. Respondents shall file a response to any such  
19 motion concurrently with, but separately from, their reply in support of their motion to  
20 dismiss or their response to petitioner's reply. Thereafter, petitioner shall have 20 days to  
21 file a reply in support of the motion for leave to conduct discovery.

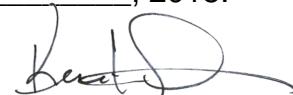
22        Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing,  
23 petitioner shall file a motion for an evidentiary hearing concurrently with, but separately  
24 from, the response to respondents' motion to dismiss or the reply to respondents' answer.  
25 Any motion for an evidentiary hearing filed by petitioner before that time may be  
26 considered premature, and may be denied, without prejudice, on that basis. The motion  
27 for an evidentiary hearing must specifically address why an evidentiary hearing is  
28 required, and must meet the requirements of 28 U.S.C. § 2254(e). The motion must state

1 whether an evidentiary hearing was held in state court, and, if so, state where the  
2 transcript is located in the record. If petitioner files a motion for an evidentiary hearing,  
3 respondents shall file a response to that motion concurrently with, but separately from,  
4 their reply in support of their motion to dismiss or their response to petitioner's reply.  
5 Thereafter, petitioner shall have 20 days to file a reply in support of the motion for an  
6 evidentiary hearing.

7 **IT IS SO ORDERED.**

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9 DATED THIS 16 day of March  
10 , 2018.



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KENT J. DAWSON,  
13 UNITED STATES DISTRICT JUDGE  
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